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TRIBAL EXECUTIVE COMMITTEE

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December 27, 1999

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
Office of the Secretary
445 12th St. SW
Room TW-2048
Washington, DC 20554

Dear Ms. Salas:

The Nez Perce Tribe submits the following regarding the Federal Communications Commission's efforts to address telecommunications underservice on Indian reservations via WT Docket No. 99-266 and CC Docket No. 96-45.

As a general proposition, the Tribe supports providing "incentives" for improving telecommunications to reservations, so long as the certain common-sense guidelines are followed. Such guidelines would include:

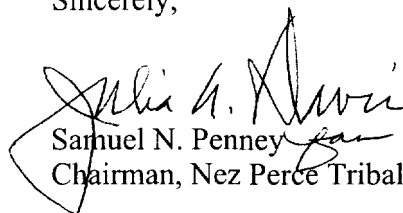
- developing a process for determining, on a reservation-by-reservation basis, the specific telecommunications needs of an Indian tribe and its members. The locations of reservations, i.e., their distance from metropolitan areas where telecommunication services are plentiful, varies dramatically from one region to another. Additionally, telecommunications in major portions of reservations may be hampered (as is the case for the Nez Perce) by geographical barriers, such as mountains and valleys. The FCC should avoid attempting to develop "one size fits all" regulations, and should build into them a means for tailoring incentive programs to the needs and geographical location of the tribe which is supposed to benefit from the program.
- requiring any potential service provider to formally contact the tribe before making an FCC request to provide services on its reservation. Often tribes are unaware that telecommunication services are being considered for, or even established on, their reservations until the services are up and running. Sometimes these are unwelcome surprises to a tribe.

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- requiring a process for meaningful involvement of tribal governments in any FCC decision to offer incentives to any potential telecommunications service provider. Tribes need not only to be provided with information when a provider requests a license from the FCC, but with an opportunity for to help shape the FCC's response to any request regarding service on their reservations.
- determining what minimal level of service should be provided for all members of the reservation community, and requiring, as part of the licensing "incentive" process, that the potential licensee participate in providing this basic level of telecommunications on the reservation. Being given an incentive should carry with it some responsibility for providing basic services.
- requiring an on-reservation public information effort by licensees to help community members understand the kind of telecommunication services a provider wants to make available, how to get them, and what they cost.
- assuring that any process takes into full account jurisdictional issues involving federal, state, local and tribal governments. The Nez Perce Tribe, like many tribes in the U.S., routinely addresses questions of jurisdiction on the reservation. Any FCC decision must not undermine a tribe's jurisdiction on its reservation.
- assuring that one-time "incentives" do not become ongoing subsidies for service providers.
- providing a process for service providers to involve tribes in the actual operation of the telecommunications systems, with the understanding that at some point the tribe and the provider may enter into an agreement for tribal operation of the system.
- assuring, on an ongoing basis, that licensees allowed to receive incentives for providing on-reservation telecommunications services are delivering the services as promised. Tribal governments and individual tribal members should have a means to review the performance of FCC licensees, both on the quantity and quality of services they are actually providing on reservations. Unfavorable reviews should result in FCC action against the service provider.

Thank you for the opportunity to address these issues. We would like to request, also, that you provide us with copies of all comments received by the FCC on WT Docket NO. 990-266 and CC Docket No. 96-45. Please let us know if there will be an additional opportunity to comment on these proposals.

Sincerely,


Samuel N. Penney
Chairman, Nez Perce Tribal Executive Committee

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